

MDR Tracking Number: M5-04-3745-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 06-28-04.

The IRO reviewed work hardening program and FCE rendered from 06-27-03 through 08-08-03 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 10-19-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 97545-WH-AP dates of service 07-16-03, 07-22-03 and 08-04-03 (3 units) denied with denial code "E" (entitlement). No TWCC-21 is on file. Reimbursement for dates of service 07-16-03 and 07-22-03 is per the 96 Medical Fee Guideline. Reimbursement for date of service 08-04-03 is per the Medical Fee Schedule effective 08-01-03. Reimbursement is recommended in the amount of \$192.00 (\$64.00 X 3 units).

CPT code 97546-WH-AP dates of service 07-16-03, 07-22-03 and 08-04-03 (15 units) denied with denial code "E" (entitlement). No TWCC-21 is on file. Reimbursement for dates of service 07-16-03 and 07-22-03 is per the 96 Medical Fee Guideline. Reimbursement for date of service 08-04-03 is per the Medical Fee Schedule effective 08-01-03. Reimbursement is recommended in the amount of \$960.00 (\$64.00 X 15 units).

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 07-16-03, 07-22-03 and 08-04-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Findings and Decision and Order are hereby issued this 17th day of December 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

October 14, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-3745-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no

known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- letter of medical necessity
- correspondence
- office notes ____ – 08/18/03
- daily progress notes 05/14/03 – 06/02/03
- physical therapy notes 05/28/03 – 08/14/03
- FCE's 06/16/03 – 08/24/03
- radiology reports 05/19/03 – 05/21/03

Information provided by Respondent:

- correspondence

Clinical History:

The claimant was working when she was involved in an accident on ____, injuring her lumbar spine. The claimant presented to the offices of the chiropractor on 05/16/03 and was diagnosed with lumbar disc displacement, joint stiffness, low back pain, muscle spasm, nerve irritation, and segmental dysfunction. MR imaging of the lumbar spine performed on 05/14/03 revealed an unremarkable study.

The worker consulted with a family physician on 05/19/03 who advised the claimant to continue conservative management and to have MR imaging of the lumbar spine to rule in/out discal pathology. On 05/19/03, the employer informed the provider that they could accommodate the claimant's restricted work duty release. Functional capacity evaluation performed on 06/16/03 revealed that the claimant was able to function within a light physical demand level (PDL); owestay data shows a 32% impairment of function in normal activities of daily life that stress the lumbar region.

Peer review report revealed that the claimant's condition should have resolved in 4 weeks over an 8-session management duration. The claimant consulted with a D.O. on 07/17/03 and was advised to continue conservative management, prescription medication (hydrocodone, Soma, Motrin), and MR imaging of the lumbar spine was advised. The claimant was initiated into a work hardening program on 06/27/03 through 08/08/03.

Disputed Services:

Work hardening program and FCE during the period of 06/27/03 through 08/08/03.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the work hardening program and FCE during the period of 06/27/03 through 08/08/03 were not medically necessary in this case.

Rationale:

The rationale expressed by the provider for the application of upper level therapeutics that includes a work-hardening program from 06/27/03 through 08/08/03 is not clear from the reviewed documents. The claimant obtained MR imaging of the lumbar spine that effectively ruled out discal injury. The claimant should have been placed into a strain/sprain therapeutic algorithm and returned to work in an expeditious manner. The provider was notified by the employer that they had a return to work program that could accommodate a restricted work duty release.

There are a number of elements in the reviewed medical records that are non sequitur. The claimant did not have any psychosocial deficits that would warrant in any capacity transition to an upper level program with a behavioral component. The services rendered by the provider from 06/27/03 through 08/08/03 are not appropriate and/or warranted in the management of this claimant's lumbar strain/sprain.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- ACOM Occupational Medicine Practice Guidelines, Chapter 12. *Low Back Pain Complaints*. Page 298-305.
- Medical Disability Advisor, 4th Edition. *Strain/Sprain-Back (ICD-9 847.2)*.
- *Overview of Implementation of Outcome Assessment Case Management In The Clinical Practice*. Washington State Chiropractic Association; 2001, 54p.
- Staal J. B. et al. *Graded Activity For Low Back Pain in Occupational Healthcare: A Randomized, Controlled Trial*. Ann Intern Med. 2004 Jan 20;240(2):77-84.

Sincerely,